

Amendments to House Bill No. 39
1st Reading Copy

Requested by Representative Scott Mendenhall

For the House Natural Resources Committee

Prepared by Greg Petesch
January 20, 2007 (6:49am)

1. Page 2, line 20.

Following: "closing"

Insert: "or transfer of real property"

2. Page 2, line 25.

Following: "closing"

Insert: "or upon completion of the transfer of real property"

3. Page 3, lines 12 through 19.

Strike: subsection (6) in its entirety

Insert: "(6) If the realty transfer certificate submitted with a deed or other instrument indicates that a water right is being severed, divided, or exempted, the clerk and recorder may not record the deed or instrument unless there is submitted with the deed or instrument a certification under penalty of false swearing, on a form provided by the department and signed by the transferor and transferee, that either states:

(a) that the documents and fee necessary to comply with this section are held in escrow, in which case the certification must also be signed by the escrow agent; or

(b) if there is no escrow, that the transferor and transferee certify that they have prepared the required documents and will send the required documents and fee to the department within 5 business days of recording, in which case the certification must also require the transferee to acknowledge that failure to file the appropriate documents and fee with the department will result in the department assessing the penalty in 85-2-431 against the transferee.

(7) Any written agreement to transfer land that has appurtenant water rights on record with the department must contain the following disclosure or words of a similar nature:

"WATER RIGHT OWNERSHIP UPDATE DISCLOSURE: By Montana law, failure of the parties at closing or transfer of real property to pay the required fee to the Montana Department of Natural Resources and Conservation for updating water right ownership may result in the transferee of the property being subject to a penalty. Additionally, in the case of water rights being exempted, severed, or divided, the failure of the parties to

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comply with section 85-2-424, MCA, could result in a penalty against the transferee and rejection of the deed for recording.""

4. Page 4, line 4.

Strike: "\$500"

Insert: "five times the fee provided for in 85-2-426"

5. Page 4, line 6.

Following: "district."

Insert: "At the discretion of the department, the judgment may be certified to the district court in the county where the real property is located."

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